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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 PRINCESS SAMANTHA
11 KENNEDY; ADAM CLAYTON
12 URICH,

Plaintiffs,

13 vs.

14 PARAMOUNT PICTURES
CORPORATION,

15 Defendant.

CASE NO. 12cv0372-WQH-WMc
ORDER

16 HAYES, Judge:

17 The matter before the Court is Plaintiffs' "Motion for Court to Alter or Amend
18 the Judgment pursuant to Rule 59, 59(e) of the Federal Rules of Civil Procedure."
19 (ECF No. 46).

20 **I. Background**

21 On February 10, 2012, Plaintiffs Princess Samantha Kennedy and Adam Clayton
22 Urich, proceeding pro se, filed a First Amended Complaint against Defendant
23 Paramount Pictures Corporation. (ECF No. 24). The First Amended Complaint alleged
24 a single cause of action for copyright infringement under 17 U.S.C. § 101. *Id.*

25 On March 27, 2013, the Court granted Defendant's Motion to Dismiss the First
26 Amended Complaint. (ECF No. 43). The Court found that "any similarities between
27 Plaintiff Kennedy's works and *Titanic* were, at most, '[o]rdinary phrases,' 'stock scenes
28 containing little in the way of original expression,' and/or 'scènes à faire, which flow

1 naturally from generic plot-lines.”” *Id.* at 8 (quoting *Funky Films, Inc. v. Time Warner*
2 *Entm’t Co., L.P.*, 462 F.3d 1072, 1976 (9th Cir. 2006)). The Court found, as a matter
3 of law, that “*Titanic* is not substantially similar to any protectable elements of Plaintiff
4 Kennedy’s works, and Defendant did not ‘cop[y] ... constituent elements of [Plaintiff
5 Kennedy’s] work that are original.’” *Id.* at 9 (quoting *Fiest Publ’ns, Inc. v. Rural Tel.*
6 *Serv. Co.*, 499 U.S. 340, 361 (1991)). The Court denied as moot Plaintiffs’ Motion for
7 Leave to Amend the First Amended Complaint and Motion for Leave to File a Sur-
8 Reply, and dismissed with prejudice the First Amended Complaint. (ECF No. 43). The
9 Clerk of the Court closed this case on March 27, 2013. (ECF No. 44).

10 On April 9, 2013, Plaintiffs filed the Motion to Alter or Amend Judgment
11 pursuant to Federal Rules of Civil Procedure 59, 59(e). (ECF No. 46). On April 30,
12 2013, Defendant filed an opposition. (ECF No. 48). On May 16, 2013, Plaintiffs filed
13 a reply. (ECF No. 49).

14 **II. Discussion**

15 A district court may alter or amend a judgment under Federal Rule of Civil
16 Procedure 59(e) if: 1) it is necessary to correct manifest errors of law or fact upon which
17 the judgment rests; 2) it is necessary to present newly discovered evidence; 3) it is
18 necessary to prevent manifest injustice; or 4) the amendment is justified by an
19 intervening change in the controlling law. *See Allstate Ins. Co. v. Heron*, 634 F.3d
20 1101, 1111 (9th Cir. 2010). A Rule 59(e) motion “may not be used to relitigate old
21 matters, or to raise arguments or present evidence that could have been raised prior to
22 the entry of judgment.” *Exxon Shipping Co. v. Baker*, 554 U.S. 471, 485 n.5 (2008)
23 (quotation omitted). A Rule 59(e) motion is “an extraordinary remedy, to be used
24 sparingly in the interests of finality and conservation of judicial resources.” *Carroll v.*
25 *Nakatani*, 342 F.3d 934, 945 (9th Cir. 2003) (quotation omitted).

26 Plaintiffs acknowledge that their “motion raises the same argument as the earlier
27 motion.” (ECF No. 49 at 4). Plaintiffs contend that there are similarities between
28 Plaintiff Kennedy’s works and *Titanic*. (ECF No. 46 at 9-10, 14-16; *see also* ECF No.

1 49-1 at 20-49, ECF No. 49-2, ECF No. 49-3 at 1-69). Plaintiffs cite to the same or
2 similar examples as Plaintiffs cited in opposition to Defendant's Motion to Dismiss.
3 (*Compare* ECF No. 29 at 15, *with* ECF No. 46 at 14, *and* ECF No. 49-1 at 52-62). A
4 Rule 59(e) motion "should not be used to ask the Court to rethink what is had already
5 thought through." *Garrett v. Ruiz*, No. 11cv2540 IEG (WVG), 2013 WL 2481535, at
6 *3 (S.D. Cal. 2013) (citing *United States v. Rezzonico*, 32 F. Supp. 2d 1112, 1116 (D.
7 Ariz. 1998)). The Court has reviewed the submissions of the parties and finds Plaintiffs
8 have not met their burden under Rule 59(e).

9 **II. Conclusion**

10 IT IS HEREBY ORDERED that the Motion for the Court to Alter or Amend the
11 Judgment is **DENIED**. (ECF No. 46).

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13 DATED: July 9, 2013

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15 **WILLIAM Q. HAYES**
16 United States District Judge
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